

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EVELYN LINA HAYES,	:	CIVIL ACTION NO. 3:17-CV-648
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
NANCY A. BERRYHILL,¹	:	
	:	
Defendant	:	

ORDER

AND NOW, this 26th day of July, 2018, upon consideration of the report (Doc. 15) of Magistrate Judge Karoline Mehalchick, recommending the court vacate the decision of the administrative law judge denying the application of plaintiff Evelyn Lina Hayes (“Hayes”) for a period of disability, disability insurance benefits, and supplemental security income, and remand this matter for further proceedings, wherein Judge Mehalchick opines that the administrative law judge’s decision is not “supported by substantial evidence,” 42 U.S.C. § 405(g), and it appearing that the Commissioner of Social Security (“Commissioner”) does not object to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of

¹ Due to the Federal Vacancies Reform Act, 5 U.S.C. § 3345 *et seq.*, former acting Commissioner of Social Security Nancy A. Berryhill is currently presiding as the Deputy Commissioner for Operations of the Social Security Administration. For consistency purposes, however, we continue to refer to Ms. Berryhill as “the Commissioner.”

good practice, a district court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following review of the record, the court being in agreement with Judge Mehalchick’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 15) of Magistrate Judge Mehalchick is ADOPTED.
2. The Clerk of Court shall enter judgment in favor of plaintiff Evelyn Lina Hayes and against the Commissioner of Social Security (“Commissioner”) as set forth in the following paragraph.
3. The Commissioner’s decision is VACATED and this matter is REMANDED to the Commissioner with instructions to conduct a new administrative hearing, develop the record fully, and evaluate the evidence appropriately in accordance with this order and the report (Doc. 15) of Magistrate Judge Mehalchick.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania